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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/203,004	02/28/1994	DAVID BERD	1225/0C674	2699

7590 12/05/2006

DARBY & DARBY  
805 THIRD AVENUE  
NEW YORK, NY 10022

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

1. The Appeal Brief filed on August 28, 2006 in response to the Office Action of September 27, 2005 is acknowledged and has been entered.
2. The Appeal Brief is defective because the Brief does not comply with the requirements of 37 CFR 1.192(c) because:

A) Although Appellant has attempted to be responsive to the paper mailed May 26, 2006, Section (6) of the Brief is still not a concise statement of the issues presented for review. In particular, as previously set forth, "In particular, a concise statement of the issues presented for review is required. Each stated issue should correspond to a separate ground of rejection which appellant wishes the Board of Patent Appeals and Interferences to review. While the statement of the issues must be concise, it should not be so concise as to omit the basis of each issue. For example, a statement such as, e.g., "Whether claims 1 and 2 are unpatentable under 35 U.S.C. 103 over Smith in view of Jones," would comply with 37 CFR 1.192(c)(6)."

Appellant can comply with this requirement, for example, by stating the following and making parallel changes in the other issues set forth:

"Whether claims 47, 65-72 and 74-77 are obvious over Murphy et al in view of US Patent No. 5,702,704, US Patent No. 5,636,843, US Patent No. 5,008,183 or US Patent No. 4,232,001, and Berd et al, and Geczy et al".

References to paper numbers, exhibits, referencing papers, abbreviations confuse the issue and are not drawn to a concise statement of the issues presented for review as required.

B) Although Section (9) of the Brief now is drawn to a double spaced copy of the claims, the submitted claims do not comply with the requirements

of 37 CFR 1.192(c) because the section requires that the Claims Index contain a copy of all of the claims involved in the appeal.

However, although the Status of the Claims section (3) discloses that claims 43, 44, 47, 49-62, 64-72, 74-77 are pending and are the subject of this Brief, the newly submitted Appendix does not disclose all of the claims that are the subject of the appeal, that is, the section does not disclose claims 43 or 47, further, the Appendix includes claims 45-46 that were previously cancelled in Responses to Office Actions during the prosecution of this application.

3. To avoid dismissal of the appeal, appellant must submit an appeal brief in compliance with the requirements of these sections within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or, (3) within two months from the date of the notice of appeal under 37 CFR 1.191.

Extensions of these time periods may be granted under 37 CFR 1.136.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this

Art Unit: 1642

application, all further correspondence regarding this application should be directed to Group Art Unit 1642.

A handwritten signature in black ink, appearing to read "Susan Ungar". The signature is fluid and cursive, with the first name "Susan" written in a larger, more prominent script than the last name "Ungar".

Susan Ungar

Primary Patent Examiner

November 26, 2006